

Appendix G

Examples of Contract Documentation Forms

- **Contract Documentation Checklist - Pages G-1 through G-3**
 - The purpose of this form is to provide a checklist to remind contract managers of the contracting process steps.
- **Contract Documentation Form - Pages G-4 through G-6**
 - The purpose of this document is to provide a means of documenting the contracting process.
- **Planning and Risk Assessment Form - Pages G-7 through G-10**
 - The staff at the Office of the Superintendent of Public Instruction uses this form.

Contract Documentation Checklist

Contract Number: _____

Contractor Name: _____

Contract Manager: _____

What services are being contracted?

Do state agency personnel typically perform them? Yes ☐ No ☐

What type of contract is this?

- ☐ Client Service
- ☐ Personal Service

Document the following pre-contract decisions:

- ☐ Funding Availability
- ☐ Type of Appropriation
- ☐ Cost/Benefit Analysis
- ☐ Available Public Resources
- ☐ Legal Constraints to Contracting
- ☐ Contracting with Current or Former State Employees
- ☐ Independent Contractor Relationship
- ☐ Fiscal Considerations (appropriate method of compensation and billing)
- ☐ Federally Funded Contracts (subrecipient or vendor)
- ☐ Audits (evaluate coverage provided by existing and anticipated audits)

Contractor Selection and Screening:

- ☐ Competitive procurement process was used?
- ☐ Were procedures sufficient to obtain an adequate number of responses?
- ☐ How broadly was the solicitation for proposals advertised?
- ☐ Were OMWBE firms afforded the maximum practical opportunity in the specific procurement?

Were appropriate contractor screening criteria and methods used? Consider the following contractor standards:

- ☐ Appropriate experience, staffing, technical qualifications, and facilities;
- ☐ Able to comply with the proposed or required time of delivery or performance schedule;
- ☐ Adequate administrative and financial capability for performance;
- ☐ Satisfactory record of integrity, judgment, and performance;
- ☐ Otherwise qualified and eligible to receive a contract under applicable laws and regulations;
- ☐ Provided evidence of the appropriate licenses, registrations and certifications that would apply to the specific contracted services;
- ☐ Non-competitive process was used?
- ☐ Explain reasons for selecting contractor(s);
- ☐ Sole source selection method was used?
- ☐ Explain reasons for selecting contractor(s).

Risk Assessment and Monitoring Plan:

- ☐ Were program and contractor risks assessed prior to entering into a contract?
- ☐ Does the risk assessment form the basis of the monitoring plan?
- ☐ Was the risk assessment used to determine the scope, frequency, and methods of monitoring and/or auditing to be used to ensure sufficient oversight?

Contract Provisions:

Specifically review the contract for the following items:

- ☐ Is the scope of work clearly written and defined?
- ☐ Are amendments made in writing and executed prior to the expiration of the original contract?
- ☐ Are performance measures required and do they satisfy statutorily mandated outcomes?
- ☐ Are hold harmless and indemnification provisions included?
- ☐ Are liability and industrial insurance provisions adequate?

- ☐ Are remedies and sanctions provisions appropriate to safeguard the state's interests?
- ☐ Do contract termination provisions protect the state's rights?
- ☐ Was an appropriate compensation method selected and identified in the contract?
- ☐ Is coordination with other agencies an issue?

Technical Assistance:

- ☐ Will this contractor need technical assistance? What are the indicators?
- ☐ How will technical assistance be provided to the contractor?

Monitoring:

- ☐ Is there a monitoring plan in place? What monitoring activities are listed in your plan?
- ☐ If corrective action is needed, is there a corrective action form your agency uses?
- ☐ If criminal activity is suspected, was it reported?

Post-Contract Follow up:

- ☐ Any activities need follow up?
- ☐ All invoices have been received and paid?
- ☐ Follow up on audit findings needed?
- ☐ Program objectives and outcomes have been evaluated/assessed?

Audits:

- ☐ Have audits been completed on this provider?
- ☐ What audit coverage is necessary to assure appropriate spending of state funds?
- ☐ Was a risk assessment completed to determine whether an audit is needed?
- ☐ Is corrective action necessary? Were questioned costs and audit findings resolved?

Contract Documentation Form

Contracting Activity	Comments
Contract Number: Contractor Name: Contract Manager:	
Pre-Contract Considerations	
Document the types of services being contracted. Are the services performed by state agency personnel?	
What type of contract is this? (Client Service, Personal Service)	
Document the following pre-contract decisions.	
✓ Funding Availability	
✓ Type of Appropriation	
✓ Cost/Benefit Analysis	
✓ Available Public Resources	
✓ Legal Constraints to Contracting	
✓ Contracting with Current or Former State Employees	
✓ Independent Contractor Relationship	
✓ Fiscal Considerations (appropriate method of compensation and billing)	
✓ Federally Funded Contracts (subrecipient or vendor)	
✓ Audits (evaluate coverage provided by existing and anticipated audits)	
Contractor Selection and Screening	
Document the decision to use a competitive procurement process or whether a non-competitive, sole source selection method was used.	
For competitive process, were procedures sufficient to obtain an adequate number of responses? How broadly was the solicitation for proposals advertised?	
Were OMWBE firms afforded the maximum practical opportunity in the specific procurement?	
Were appropriate contractor-screening criteria and methods used? Consider the following contractor standards:	
✓ Appropriate experience, staffing, technical qualifications, and facilities.	
✓ Able to comply with the proposed or required time of delivery or performance schedule.	
✓ Adequate administrative and financial capability for performance.	

Contracting Activity	Comments
✓ Satisfactory record of integrity, judgment, and performance.	
✓ Otherwise qualified and eligible to receive a contract under applicable laws and regulations.	
✓ Provided evidence of the appropriate licenses, registrations and certifications that would apply to the specific contracted services.	
Risk Assessment and Monitoring Plan	
Were the program and contractor risks assessed prior to entering into a contract? The assessment should form the basis of the monitoring plan.	
Was the risk assessment used as the basis to determine the scope, frequency, and methods of monitoring and/or auditing to be used to ensure sufficient oversight?	
Contract Provisions	
Specifically review the contract for the following items:	
✓ Is the scope of work clearly written and defined?	
✓ Are amendments made in writing and executed prior to the expiration of the original contract?	
✓ Are performance measures required and do they satisfy statutorily mandated outcomes?	
✓ Are hold harmless and indemnification provisions included?	
✓ Are liability and industrial insurance provisions adequate?	
✓ Are remedies and sanctions provisions appropriate to safeguard the state's interests?	
✓ Do contract termination provisions protect the state's rights?	
✓ Was an appropriate compensation method selected and identified in the contract?	
✓ Does the contract specify that payment will not be made for the same or similar services for the same client more than once (no duplicate payments)?	
Technical Assistance	
Will this contractor need technical assistance? What are the indicators?	
How will technical assistance be provided to the contractor?	

APPENDIX G

Contracting Activity	Comments
Monitoring	
Is there a monitoring plan in place? What monitoring activities are listed in your plan?	
If corrective action is needed, is there a corrective action form your agency uses?	
If criminal activity is suspected, was it reported?	
Post-Contract Follow-up Procedures	
Any activities need follow up?	
All invoices have been received and paid?	
Follow up on audit findings needed?	
Program objectives and outcomes have been evaluated/assessed?	
Audits	
Have audits been completed on this provider?	
What audit coverage is necessary to assure appropriate spending of state funds?	
Was a risk assessment completed to determine whether an audit is needed?	
Is corrective action necessary? Were questions costs resolved?	
Are audit findings resolved?	

PLANNING AND RISK ASSESSMENT FORM

This form must be completed for all Client Service contracts. A copy of this form should accompany the original contract through the contract approval process and should be filed with the executed contract. The contract designee should maintain the original in their contract file for risk assessment updates and revisions as necessary, as well as monitoring and post-contract evaluation. The final Planning and Risk Assessment must be sent to contracts administrator after contract is complete.

CONTRACTOR NAME: _____

CONTRACT DESIGNEE: _____

Has contract designee completed contract training? ☐ Yes ☐ No

CONTRACT NUMBER: _____

(Contract No. is provided by the contracts administrator)

PRE-CONTRACT PLANNING

1. Document the type of services being contracted:

2. Document the following pre-contract decisions:

Decision	Comments
Funding availability (include MIC)?	
Type of appropriation (state, federal, private)?	
Have you performed a cost/benefit analysis?	
Available public resources?	
<ul style="list-style-type: none"> Agency resources 	
<ul style="list-style-type: none"> Other public resources 	
Any legal constraints to contracting?	
Is contractor a current or former state employee?	
<ul style="list-style-type: none"> If current, does contractor require Ethics Board approval? If former, provide last date of employment. 	
Does an independent contractor relationship exist?	
Have you determined the appropriate method(s) of compensation and billing? Explain. <input type="checkbox"/> Cost Reimbursement (Budget) <input type="checkbox"/> Time and materials (Hourly) <input type="checkbox"/> Fixed Price <input type="checkbox"/> Performance-based (valuation of deliverables)	
Federally funded contracts - subrecipient or vendor?	
Are audits required? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, evaluate coverage provided by existing and anticipated audits.	

CONTRACTOR SELECTION AND SCREENING

1. What was the process used to select this contractor?

☐ Competitive ☐ Sole Source

2. If competitive, describe the process used.

☐ Formal (>\$20,000) ☐ Informal (<\$20,000)

3. Please document where competitive documentation (proposals, proof of advertisement, etc.) will be maintained.

4. If sole source, describe why competition was not appropriate. Explain reasons for selecting contractor.

5. Advertised? ☐ Yes ☐ No ☐ N/A (less than \$20,000)

If yes, where and when was the advertisement placed?

Do you have proof of advertisement (tear sheet and affidavit)? ☐ Yes ☐ No

6. Does the contractor require accreditation and licensure? ☐ Yes ☐ No

If yes, have you received proof from contractor? ☐ Yes ☐ No

RISK ASSESSMENT

Please respond to the following questions with regards to the risks associated with this contract.
Risk inherent in a contractor's potential performance is dynamic and should be updated periodically throughout the term of the contract. Not required on contracts less than \$5,000.

<u>Risk Point(s)</u>	<u>Risk Factor</u>
0 =	Factor is not applicable
1 - 2 =	Low Risk
3 =	Medium Risk
4 - 5 =	High Risk
5 =	Unknown Risk Factor

1. Program or Contract Risk

Risk Factor	Risk Points
Contract monitoring is required by law or regulation (such as Single Audit Act)	
Program history (new or established program?)	
Contract dollar amount \$5,000 to <\$25,000 = Low Risk >\$25,000 to <\$100,000 = Medium Risk >\$100,000 = High Risk	
Total funding (does the contract represent an significant portion of the total program funding?)	
Program complexity (are program requirements simple or complex?)	
Client health and safety (who is the direct client and how vulnerable are they?)	
Payment method (how complex is it?) What method(s) did you use? What experience do you have with the method(s)? <input type="checkbox"/> Cost Reimbursement (Budget) (score 3-5) <input type="checkbox"/> Time and materials (Hourly) (score 3-5) <input type="checkbox"/> Fixed Price (score 1-3)) <input type="checkbox"/> Performance-based (valuation of deliverables) (score 1-3)	
Procurement method: <input type="checkbox"/> Competitive (score 1 to 3) <input type="checkbox"/> Sole Source (score 3 to 5)	

2. Contractor Risk

Risk Factor	Risk Points
Total funding the contractor receives from the agency	
Number of contracts with State (is the contractor receiving funding from several sources for similar services?)	
Collaboration (is their collaboration with any of the other state funding partners?)	
Length of time in business	
Experience and past performance	
Accreditation and licensure (Is contractor subject to either and if so, do you have proof?)	
Financial health and practices (is contractor's financial condition good or poor?)	
Current and prior audit experience (has the contractor had weaknesses in internal control with federal or state programs?)	
Monitoring exercised by other funding agencies (has there been monitoring, etc., by other agencies that could indicate the degree of risk?)	
Board of Directors (for Non-profits only - do they take an active role in the organization?)	
Subcontracting activities (does the contractor have an effective monitoring function to oversee subcontractors?)	
Organizational changes (is organization stable or does it have frequent turnover?)	
Management structure and adequacy (Is organization centralized or decentralized - how much control over decentralized functions?)	
Legal actions (has there been any for the last 12 months? - if so, what?)	
Background of individuals (do you have resumes?)	

CONTRACT MONITORING

Monitoring means any planned, ongoing or periodic activity that measures and ensures contractor compliance with the terms, conditions, and requirements of a contract. The level of monitoring should be based on a risk assessment of the contractor's role in delivering services and the contractor's ability to deliver under the terms of the contract.

1. Were contract and contractor risks assessed prior to entering into a contract?

☐ Yes ☐ No

2. Does the risk assessment form the basis of the monitoring plan?

☐ Yes ☐ No

3. Was the risk assessment used to determine the scope, frequency, and methods of monitoring and/or auditing to be used to ensure sufficient oversight? ☐ Yes ☐ No
4. What monitoring activities are in your plan?

Monitoring Activities	Comments
Review of entity periodic reports	
Review of entity invoices and other documentation	
Conduct onsite reviews or other observations (meetings, etc.)	
Maintain other periodic contact with contractor (telephone, email, etc.)	

TECHNICAL ASSISTANCE

1. Will this contractor need technical assistance? ☐ Yes ☐ No
If yes, what are the indicators?
2. How will technical assistance be provided to this contractor?

AUDITS

Issue	Comments
Have audits been completed on this contract (for example, A133 audits)?	
What, if any, audit coverage is necessary to assure appropriate spending of state funds?	
Was a risk assessment completed to determine whether an audit was needed?	
Is corrective action necessary? Were questioned costs resolved?	
Are audit findings, if any, resolved?	

POST-CONTRACT FOLLOW-UP PROCEDURES

Issue	Comment
Any activities need follow-up?	
All invoices have been received and paid?	
Follow-up on audit findings needed?	
Program objectives and outcomes have been evaluated/assessed? Please describe.	

Provide evaluation of contractor performance:

Final must be submitted to Contracts Administrator.